

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2616**

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**Introduced by Assembly Member Lowenthal**

February 21, 2014

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An act to amend Section ~~3455~~ 3453 of the Penal Code, relating to postrelease community supervision.

### LEGISLATIVE COUNSEL’S DIGEST

AB 2616, as amended, Lowenthal. Postrelease community ~~supervision~~. *supervision: notification of penalties for violation.*

Existing law, the Postrelease Community Supervision Act of 2011, requires certain inmates released from state prison to be subject to supervision by a county agency. The act ~~provides that if the supervising county agency has determined, following application of its assessment processes, that authorized intermediate sanctions are not appropriate, the supervising county agency is required to petition the court, as specified, to revoke, modify, or terminate postrelease supervision~~ *specifies the conditions of postrelease community supervision, including, among others, requiring that the person released be informed of the conditions of his or her release. Existing law permits each county agency responsible for postrelease supervision to determine an appropriate response to alleged violations of those conditions, including flash incarceration in a city or county jail. Existing law defines flash incarceration as a period of detention in a city or county jail ranging from one to 10 days due to a violation of an offender’s conditions of postrelease supervision.*

This bill would ~~make technical, nonsubstantive changes to those provisions~~ *additionally require, as a condition of postrelease community*

*supervision, that the person released be informed of the penalties for violation of the conditions of postrelease community supervision, including, but not limited to, the potential for flash incarceration without a court hearing. By increasing the duties of local officials, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 3453 of the Penal Code is amended to
- 2     read:
- 3     3453. Postrelease community supervision shall include the
- 4     following conditions:
- 5         (a) The person shall be informed of the conditions of release
- 6         *and penalties for violation of those conditions, including, but not*
- 7         *limited to, the potential for flash incarceration without a court*
- 8         *hearing.*
- 9         (b) The person shall obey all laws.
- 10        (c) The person shall report to the supervising county agency
- 11        within two working days of release from custody.
- 12        (d) The person shall follow the directives and instructions of
- 13        the supervising county agency.
- 14        (e) The person shall report to the supervising county agency as
- 15        directed by that agency.
- 16        (f) The person, and his or her residence and possessions, shall
- 17        be subject to search at any time of the day or night, with or without
- 18        a warrant, by an agent of the supervising county agency or by a
- 19        peace officer.
- 20        (g) The person shall waive extradition if found outside the state.
- 21        (h) The person shall inform the supervising county agency of
- 22        the person's place of residence, employment, education, or training.

1 (i) (1) The person shall inform the supervising county agency  
2 of any pending or anticipated changes in residence, employment,  
3 education, or training.

4 (2) If the person enters into new employment, he or she shall  
5 inform the supervising county agency of the new employment  
6 within three business days of that entry.

7 (j) The person shall immediately inform the supervising county  
8 agency if he or she is arrested or receives a citation.

9 (k) The person shall obtain the permission of the supervising  
10 county agency to travel more than 50 miles from the person's place  
11 of residence.

12 (l) The person shall obtain a travel pass from the supervising  
13 county agency before he or she may leave the county or state for  
14 more than two days.

15 (m) The person shall not be in the presence of a firearm or  
16 ammunition, or any item that appears to be a firearm or  
17 ammunition.

18 (n) The person shall not possess, use, or have access to any  
19 weapon listed in Section 16140, subdivision (c) of Section 16170,  
20 Section 16220, 16260, 16320, 16330, or 16340, subdivision (b)  
21 of Section 16460, Section 16470, subdivision (f) of Section 16520,  
22 or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940,  
23 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280,  
24 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725,  
25 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310,  
26 20410, 20510, 20610, ~~20611~~, 20710, 20910, 21110, 21310, 21810,  
27 22010, 22015, 22210, 22215, 22410, 24310, 24410, 24510, 24610,  
28 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410,  
29 32415, 32420, 32425, ~~32430~~ 32430, 32435, 32440, 32445, 32450,  
30 32900, 33215, 33220, 33225, or 33600.

31 (o) (1) Except as provided in paragraph (2) and subdivision  
32 (p), the person shall not possess a knife with a blade longer than  
33 two inches.

34 (2) The person may possess a kitchen knife with a blade longer  
35 than two inches if the knife is used and kept only in the kitchen of  
36 the person's residence.

37 (p) The person may use a knife with a blade longer than two  
38 inches, if the use is required for that person's employment, the use  
39 has been approved in a document issued by the supervising county

1 agency, and the person possesses the document of approval at all  
2 times and makes it available for inspection.

3 (q) The person shall waive any right to a court hearing prior to  
4 the imposition of a period of “flash incarceration” in a city or  
5 county jail of not more than 10 consecutive days for any violation  
6 of his or her postrelease supervision conditions.

7 (r) The person shall participate in rehabilitation programming  
8 as recommended by the supervising county agency.

9 (s) The person shall be subject to arrest with or without a warrant  
10 by a peace officer employed by the supervising county agency or,  
11 at the direction of the supervising county agency, by any peace  
12 officer when there is probable cause to believe the person has  
13 violated the terms and conditions of his or her release.

14 *SEC. 2. If the Commission on State Mandates determines that*  
15 *this act contains costs mandated by the state, reimbursement to*  
16 *local agencies and school districts for those costs shall be made*  
17 *pursuant to Part 7 (commencing with Section 17500) of Division*  
18 *4 of Title 2 of the Government Code.*

19 ~~SECTION 1. Section 3455 of the Penal Code is amended to~~  
20 ~~read:~~

21 ~~3455. (a) If the supervising county agency has determined,~~  
22 ~~following application of its assessment processes, that intermediate~~  
23 ~~sanctions as authorized in subdivision (b) of Section 3454 are not~~  
24 ~~appropriate, the supervising county agency shall petition the court~~  
25 ~~pursuant to Section 1203.2 to revoke, modify, or terminate~~  
26 ~~postrelease community supervision. At any point during the process~~  
27 ~~initiated pursuant to this section, a person may waive, in writing,~~  
28 ~~his or her right to counsel, admit the violation of his or her~~  
29 ~~postrelease community supervision, waive a court hearing, and~~  
30 ~~accept the proposed modification of his or her postrelease~~  
31 ~~community supervision. The petition shall include a written report~~  
32 ~~that contains additional information regarding the petition,~~  
33 ~~including the relevant terms and conditions of postrelease~~  
34 ~~community supervision, the circumstances of the alleged~~  
35 ~~underlying violation, the history and background of the violator,~~  
36 ~~and any recommendations. The Judicial Council shall adopt forms~~  
37 ~~and rules of court to establish uniform statewide procedures to~~  
38 ~~implement this subdivision, including the minimum contents of~~  
39 ~~supervision agency reports. Upon a finding that the person has~~  
40 ~~violated the conditions of postrelease community supervision, the~~

1 ~~revocation hearing officer shall have authority to do all of the~~  
2 ~~following:~~

3 ~~(1) Return the person to postrelease community supervision~~  
4 ~~with modifications of conditions, if appropriate, including a period~~  
5 ~~of incarceration in county jail.~~

6 ~~(2) Revoke and terminate postrelease community supervision~~  
7 ~~and order the person to confinement in the county jail.~~

8 ~~(3) Refer the person to a reentry court pursuant to Section 3015~~  
9 ~~or other evidence-based program in the court's discretion.~~

10 ~~(b) (1) At any time during the period of postrelease community~~  
11 ~~supervision, if a peace officer has probable cause to believe a~~  
12 ~~person subject to postrelease community supervision is violating~~  
13 ~~any term or condition of his or her release, the officer may, without~~  
14 ~~a warrant or other process, arrest the person and bring him or her~~  
15 ~~before the supervising county agency established by the county~~  
16 ~~board of supervisors pursuant to subdivision (a) of Section 3451.~~  
17 ~~Additionally, an officer employed by the supervising county agency~~  
18 ~~may seek a warrant and a court or its designated hearing officer~~  
19 ~~appointed pursuant to Section 71622.5 of the Government Code~~  
20 ~~shall have the authority to issue a warrant for that person's arrest.~~

21 ~~(2) The court or its designated hearing officer shall have the~~  
22 ~~authority to issue a warrant for a person who is the subject of a~~  
23 ~~petition filed under this section who has failed to appear for a~~  
24 ~~hearing on the petition or for any reason in the interests of justice,~~  
25 ~~or to remand to custody a person who does appear at a hearing on~~  
26 ~~the petition for any reason in the interests of justice.~~

27 ~~(c) The revocation hearing shall be held within a reasonable~~  
28 ~~time after the filing of the revocation petition. Based upon a~~  
29 ~~showing of a preponderance of the evidence that a person under~~  
30 ~~supervision poses an unreasonable risk to public safety, or that the~~  
31 ~~person may not appear if released from custody, or for any reason~~  
32 ~~in the interests of justice, the supervising county agency shall have~~  
33 ~~the authority to make a determination whether the person should~~  
34 ~~remain in custody pending the first court appearance on a petition~~  
35 ~~to revoke postrelease community supervision, and upon that~~  
36 ~~determination, may order the person confined pending his or her~~  
37 ~~first court appearance.~~

38 ~~(d) Confinement pursuant to paragraphs (1) and (2) of~~  
39 ~~subdivision (a) shall not exceed a period of 180 days in a county~~  
40 ~~jail for each custodial sanction.~~

1     ~~(e) A person shall not remain under supervision or in custody~~  
2     ~~pursuant to this title on or after three years from the date of the~~  
3     ~~person's initial entry onto postrelease community supervision;~~  
4     ~~except when his or her supervision is tolled pursuant to Section~~  
5     ~~1203.2 or subdivision (b) of Section 3456.~~

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